

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF MISSOURI
EASTERN DIVISION

ACUITY, A MUTUAL INSURANCE
COMPANY,

Plaintiff,

v.

RIVERDALE PACKAGING
CORPORATION,

and

LORA PROPERTY INVESTMENTS,
LLC

and

WOMBAT ACQUISITIONS LLC,

Defendants.

Case No.: 4:24-cv-01277

**PLAINTIFF ACUITY'S MOTION FOR LEAVE TO FILE SUR-REPLY TO
WOMBAT'S REPLY IN SUPPORT OF MOTION TO DISMISS
FOR FAILURE TO STATE A CLAIM**

COMES NOW plaintiff Acuity, by and through counsel, and pursuant to Local Rule 4.01(C), submits the following motion for leave to file a brief sur-reply to defendant Wombat's reply in support of motion to dismiss for failure to state a claim.

On December 9, 2024, defendant Wombat filed its reply in support of its motion to dismiss for failure to state a claim. In the reply, Wombat advances a misguided interpretation of two Missouri cases that are instructive on the issues raised by the plaintiff's Petition for Declaratory Judgment.

Given the stakes of Wombat's motion, it is imperative that this Court have a clear understanding of those cases and how they are distinguishable from the facts of this case. Not only does Wombat's reply fail to advance that cause, but it actually invites a flawed construction of those holdings. Accordingly, plaintiff Acuity requests leave of court to file a brief sur-reply, **not to exceed three pages**, to address the arguments set forth in Wombat's reply.

WHEREFORE, for the foregoing reasons, plaintiff Acuity respectfully requests this Court's order granting it leave to file a brief sur-reply to Wombat's reply in support of motion to dismiss for failure to state a claim, and for such additional relief as the Court deems appropriate under the circumstances.

Respectfully submitted,

BAKER STERCHI COWDEN & RICE LLC

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ATTORNEYS FOR PLAINTIFF ACUITY,
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CERTIFICATE OF SERVICE

The undersigned hereby certifies that a copy of the foregoing was served on all parties of record by operation of the Court's electronic case filing and case management system on December 10, 2024.

/s/ Michael Shunk